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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

AR 05-06

SOURCE: Internally Generated (Audit Division)

RESPONDENTS: Americans for a Republican Majority and
Corwin Teltschik, in his official capacity as Treasurer

DATE REFERRED: August 9, 2005

DATE ACTIVATED: October 13, 2005

EXPIRATION OF SOL: February 2, 2006 – January 30, 2008

MUR 5675

COMPLAINANT: Citizens for Responsibility and Ethics in Washington

RESPONDENTS: Americans for a Republican Majority and Corwin Teltschik, in his official
capacity as Treasurer

DATE COMPLAINT FILED: August 12, 2005

DATE OF NOTIFICATION: August 17, 2005

DATE ACTIVATED: October 13, 2005

EXPIRATION OF SOL: February 2, 2006 – January 30, 2008

RELEVANT STATUTE(S): 2 U.S.C. § 434(b)
11 C.F.R. § 102.5(a)
11 C.F.R. § 104.3(d)
11 C.F.R. § 104.10(b)(4)
11 C.F.R. § 104.11
11 C.F.R. § 106.5(f)
11 C.F.R. § 106.6

INTERNAL REPORTS CHECKED: Audit Documents
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

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I. INTRODUCTION

The Commission audited Americans for a Republican Majority ("ARMPAC" or "the Committee"), a non-connected committee founded and chaired by United States Representative Tom DeLay that maintains both federal and non-federal accounts, pursuant to 2 U.S.C. § 438(b). On July 28, 2005, the Commission approved the Final Audit Report on ARMPAC, covering the Committee's activities from January 1, 2001 through December 31, 2002. *See* Attachment 1. The Audit Division subsequently referred the findings to this Office for possible compliance action.

Following the release of the Audit Report, Citizens for Responsibility and Ethics in Washington filed a complaint with the Commission alleging that ARMPAC violated provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The allegations in the Complaint largely mirror the findings in the Audit Report.

This Office recommends that the Commission open a MUR for the audit referral and merge this with MUR 5675. Furthermore, this Office recommends that the Commission make the appropriate reason to believe findings with respect to ARMPAC

II. BACKGROUND

The Audit Report found that the Committee: (1) materially misstated financial activity for the 2001 and 2002 calendar years; (2) failed to properly report debts owed to twenty-five vendors in the amount of \$322,306; and (3) over funded the non-federal account's share of expenses by \$203,483.¹

¹ The Committee had combined receipts of \$3,631,281 and disbursements of \$3,709,757 in 2001-2002.

1 The first finding relates violations of 2 U.S.C. § 434(b) stemming from the Committee's
2 failure accurately report \$74,295 in financial activity in 2001 and \$166,340 in financial activity
3 in 2002. *See* Audit Referral at 3-5. These amounts include various receipts, disbursements and
4 transfers that were either not reported or misreported to the Commission. In response to the
5 Interim Audit Report, ARMPAC amended its disclosure reports to materially correct the
6 reporting errors. Although the Audit Division referred only the 2002 reporting errors to this
7 Office, the complaint in MUR 5675 incorporated the 2001 reporting errors in its allegations.

8 The second finding relates to ARMPAC's violations of 2 U.S.C. § 434(b) and 11 C.F.R.
9 §§ 104.3(d) and 104.11 stemming from its failure to report \$322,306 in debt owed to twenty-five
10 vendors. *See* Audit Report at 7. The Committee's disclosure reports during the 2002 election
11 cycle did not disclose any debts owed by the Committee. The Audit Division reviewed
12 disbursements made by ARMPAC and identified debts to twenty-five vendors that were not
13 included in any disclosure reports. In response to the Interim Audit Report, ARMPAC filed
14 amended reports, which included Schedules D (Debts and Obligations excluding Loans) that
15 materially disclosed these debts.

16 The third finding relates to ARMPAC's violations of 11 C.F.R. §§ 102.5(a), 104.10(b)(4),
17 106.5(f) and 106.6 stemming from the non-federal account's overpayment of \$203,483 in shared
18 federal and non-federal expenses. *See* Audit Report at 7-10. ARMPAC used the incorrect ratio
19 for allocating administrative and get-out-the-vote expenses between the federal and non-federal
20 account resulting in an overpayment of \$121,456 from the non-federal account. The Committee
21 also used the incorrect ratios for allocating expenses for eight fundraising events resulting in an
22 overpayment of \$9,414 from the non-federal account. Based on the fundraising ratios calculated

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for the eight fundraising events, the Audit Division also found that the non-federal account paid \$95,386 in shared expenses for fundraising expenses to vendors and consultants that should have been charged to the federal account. *See id.* In response to the Interim Audit Report, ARMPAC provided additional documentation reducing the over funding from the non-federal account from \$211,281 to \$203,483 and submitted amended disclosure reports to reflect the changes. ARMPAC has reimbursed the non-federal account, \$60,728 of the \$203,483 over funding.

In addition to restating the findings from the Audit Report, complainants in MUR 5675, however, also alleged that ARMPAC may have accepted corporate contributions in violation of 2 U.S.C. § 441b(a) and excessive in-kind contributions in violation of 2 U.S.C. § 441a(a)(1)(C) in connection with the \$322,306 in debts referenced in connection with the second Audit finding. *See* Complaint at 3-4.

III. FACTUAL AND LEGAL ANALYSIS

Based on the analysis set forth in the Audit Report, this Office recommends that the Commission find reason to believe that ARMPAC and its treasurer violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.5(a), 104.3(d), 104.10, 104.11, 106.5(f) and 106.6.

The sole new allegation in MUR 5675 is that unreported debts recounted in the second finding in the Audit Report may constitute contributions from the creditors to ARMPAC. *See* Complaint at 3. The complaint further suggests that these may constitute prohibited corporate contributions or excessive in-kind contributions. *See id.* at 3-4.

The Act prohibits corporations from making contributions or expenditures in connection with any election. *See* 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2. A contribution is defined as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person

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1 for the purpose of influencing any election.” 2 U.S.C. § 431(8)(A)(i). An extension of credit by
2 a commercial vendor, including a corporation acting in its capacity as a commercial vendor, will
3 not be considered a contribution provided that credit is extended in the ordinary course of the
4 vendor’s business and the terms are substantially similar to extensions of credit to non political
5 debtors of similar risk and size of obligation. *See* 11 C.F.R. §§ 116.3(a) and 116.3(b). A
6 contribution will result, however, if the creditor fails to make a commercially reasonable attempt
7 to collect the debt. *See* 11 C.F.R. § 116.4.

8 In assessing whether the credit was extended in the ordinary course of the commercial
9 vendor’s business, the Commission will consider: (1) whether the commercial vendor followed
10 its established procedures and its past practice in approving the extension of credit; (2) whether
11 the commercial vendor received prompt payment in full if it previously extended credit to the
12 same candidate or political committee; and (3) whether the extension of credit conformed to the
13 usual and normal practice in the commercial vendor’s trade. *See* 11 C.F.R. § 116.3(c).

14 The complaint fails to identify which debts may constitute prohibited or excessive
15 contributions. The transactions at issue here generally involve payments to commercial vendors
16 that were paid in full by ARMPAC within 30-60 days of receiving the invoices, although four
17 debts were paid from three to five months after the date of invoice. There is no indication from
18 the records provided during the audit indicating that these extensions of credit were not made in
19 the ordinary course of business, and ARMPAC’s response to the complaint in MUR 5675 states
20 that these debts were paid in accordance with agreements between ARMPAC and its vendors.
21 *See* ARMPAC response at 10. Given the speculative nature of these allegations, this Office
22 recommends that the Commission find no reason to believe that Americans for a Republican

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1 Majority and Corwin Teltschik, in his official capacity as Treasurer, violated 2 U.S.C. §§ 441a or
2 441b with respect to potential additional violations of the Act stemming from the \$322,306 in
3 unreported debt.

4 **IV. PROPOSED CONCILIATION**

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V. RECOMMENDATIONS

1. Open a MUR in connection with Audit Referral 05-06 and merge into MUR 5675.
2. Find reason to believe Americans for a Republican Majority and Corwin Teltschik, as Treasurer, violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.5(a), 104.3(d), 104.10(b)(4), 104.11, 106.5(f) and 106.6.
- 3.
4. Approve the attached Factual and Legal Analysis.
- 5.
6. Approve the appropriate letter.


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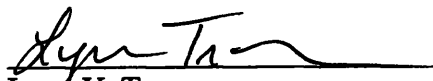
Lawrence H. Norton
General Counsel

Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

11/8/05
Date

BY:


Mark D. Shonkwiler
Assistant General Counsel


Lynn Y. Tran
Attorney

Attachments:

1. Audit Report
2. Factual and Legal Analysis

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Report of the Audit Division on Americans for a Republican Majority

January 1, 2001- December 31, 2002

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

Americans for a Republican Majority (ARMPAC) is a non-connected committee. ARMPAC qualified for multi-candidate status on October 20, 1994, and is headquartered in Washington, DC. For more information, see chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts

○ Contributions from Individuals	\$ 2,501,934
○ Other Political Committees	847,016
○ Transfers from Non-federal Account for Joint Activity	255,758
○ Offsets to Expenditures	16,149
○ Refund of Contributions Made	8,146
○ Other Receipts	<u>2,278</u>
○ Total Receipts	\$ 3,631,281

• Disbursements

○ Operating Expenditures (including other disbursements)	\$ 2,663,757
○ Contributions to Federal Candidates/Other Political Committees	<u>1,046,000</u>
○ Total Disbursements	\$ 3,709,757

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Reporting of Debts and Obligations (Finding 2)
- Non-federal Funding of Federal Activity (Finding 3)

¹ 2 U.S.C. §438(b).

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Part I Background

Authority for Audit

This report is based on an audit of the Americans for a Republican Majority (ARMPAC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions and other receipts.
4. The disclosure of disbursements, debts and obligations.
5. The disclosure of expenses allocated between federal and non-federal accounts.
6. The consistency between reported figures and bank records.
7. The completeness of records.
8. Other committee operations necessary to the review.

Scope Limitations

In maintaining its receipt and disbursement records, ARMPAC satisfied the minimum recordkeeping requirements of 11 CFR §102.9. However, the Audit staff's testing of contributions from individuals was limited by the lack of external documentation, such as copies of contributor checks, for about 28% of such contributions selected for review on a sample basis. This lack of records limited the testing for the disclosure of the contributors' name, address, and the date and amount of contribution. The testing of operating disbursements was similarly limited by the lack of external documentation, such as copies of vendor invoices, for approximately 33% of the operating disbursements selected for review on a sample basis.

Changes to the Law

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. Most of the changes became effective November 6, 2002. Except for the period November 6, 2002, through December 31, 2002, the period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are primarily those that were in effect prior to November 6, 2002.

Part II

Overview of Committee

Committee Organization

Important Dates	ARMPAC
• Date of Registration	April 22, 1994
• Audit Coverage	January 1, 2001 – December 31, 2002
Headquarters	Washington, DC
Bank Information	
• Bank Depositories	2
• Bank Accounts	2 Federal and 1 Non-Federal Checking Accounts
Treasurer	
• Treasurer When Audit Was Conducted	Corwin Teltschik
• Treasurers During Period Covered by Audit	Corwin Teltschik
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2001	\$ 181,586
○ Contributions from Individuals	2,501,934
○ Other Political Committees	847,016
○ Transfers from Non-federal Account for Joint Activity	255,758
○ Offsets to Expenditures	16,149
○ Refund of Contributions Made	8,146
○ Other Receipts	2,278
Total Receipts	\$3,631,281
○ Operating Expenditures (including other disbursements)	2,663,757
○ Contributions to Federal Candidates/Other Political Committees	1,046,000
Total Disbursements	\$3,709,757
Cash on hand @ December 31, 2002	\$ 103,110

Part III Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial activity

A comparison of ARMPAC's reported figures to its bank records revealed that receipts and the ending cash balance had been materially misstated for calendar year 2001 as well as beginning cash-on-hand, receipts, disbursements and ending cash-on-hand for calendar year 2002. The Audit staff recommended that ARMPAC amend its disclosure reports to correct the misstatements. In response to the interim audit report, ARMPAC filed amended reports that materially corrected the misstatements noted above. (For more detail, see p. 4)

Finding 2. Reporting of Debts and Obligations

ARMPAC failed to report debts owed to 25 vendors in the amount of \$322,306. The Audit staff recommended that ARMPAC amend its disclosure reports to include these debts. In response to the interim audit report, ARMPAC filed amended reports that materially disclosed the debts noted above. (For more detail, see p. 6)

Finding 3. Non-federal Funding of Federal Activity

A review of expenditures made from federal and non-federal accounts indicated that the non-federal account potentially paid more than its share of allocable expenses by \$211,281. Contributing significantly to this result was the allocation ratio for administrative expenses used by ARMPAC. ARMPAC allocated 50% of its administrative expenses to the non-federal account, instead of 7%. In addition, ARMPAC made disbursements that appear to be allocable between the federal and non-federal accounts from its non-federal account rather than from its federal account. The Audit staff recommended that ARMPAC either demonstrate there had been no over funding by the non-federal account or reimburse the non-federal account \$211,281 and correct its disclosure of the expenditures. In response to the interim audit report, ARMPAC provided additional documentation that reduced the liability to the non-federal account to \$203,483 and amended its disclosure reports to reflect these changes. (For more detail, see p. 7)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

A comparison of ARMPAC's reported figures to its bank records revealed that receipts and the ending cash balance had been materially misstated for calendar year 2001 as well as beginning cash-on-hand, receipts, disbursements and ending cash-on-hand for calendar year 2002. The Audit staff recommended that ARMPAC amend its disclosure reports to correct the misstatements. In response to the interim audit report, ARMPAC filed amended reports that materially corrected the misstatements noted above.

Legal Standard

Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
 - The total amount of receipts for the reporting period and for the calendar year;
 - The total amount of disbursements for the reporting period and for the calendar year; and
 - Certain transactions that require itemization on Schedule A (Itemized Receipts); Schedule B (Itemized Disbursements) or Schedule H4 (Joint Federal/Non-federal Activity Schedule).
- 2 U.S.C. §§434(b)(1), (2), and(4).

Facts and Analysis

The Audit staff reconciled reported activity to bank records for calendar years 2001 and 2002. The following charts outline the discrepancies for the beginning cash balance, receipts, disbursements and the ending cash balance for each year. Succeeding paragraphs address the reasons for the misstatements.

2001 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2001	\$184,999	\$181,586	\$3,413 Overstated
Receipts	\$1,752,895	\$1,688,418	\$64,477 Overstated
Disbursements	\$1,776,718	\$1,766,900	\$9,818 Overstated
Ending Cash Balance @ December 31, 2001	\$161,176	\$103,104	\$58,072 Overstated

The \$3,413 overstatement of the beginning cash balance on January 1, 2001 could not be explained.

The net overstatement of receipts resulted from the following:

• In-kind contribution disclosed but not included in reported totals	+ \$ 1,661
• Reported receipts not supported by a deposit	- 88,655
• Contribution amount reported incorrectly	+ 500
• Contributions from individuals and political committees not reported	+ 11,800
• Transfers from non-federal account reported incorrectly	+ 8,238
• Unexplained difference.	+ 1,979
Total net overstatement of receipts	<u>\$ (64,477)</u>

The net overstatement of disbursements resulted from the following:

• Reported disbursement paid by Non-federal account	- \$ 15,711
• In-kind contributions not reported	+ 3,180
• Unreported operating expenditures	+ 8,569
• Reported disbursements subsequently voided but not adjusted	- 4,584
• Unexplained difference.	- 1,272
Total net overstatement of disbursements	<u>\$ (9,818)</u>

As a result of the misstatements detailed above, the ending cash on hand was overstated by \$58,072.

2002 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2002	\$161,176	\$103,104	\$58,072 Overstated
Receipts	\$1,817,147	\$1,942,863	\$125,716 Understated
Disbursements	\$1,902,233	\$1,942,857	\$40,624 Understated
Ending Cash Balance @ December 31, 2002	\$76,090	\$103,110	\$27,020 Understated

The overstatement of the beginning cash balance on January 1, 2002, was the result of the discrepancies detailed above for 2001.

The understatement of receipts resulted from the following:

• In-kind contributions disclosed as memo and not included in reported totals	+ \$ 750
• PAC and individual contributions not reported	+ 66,750
• Transfers from non-federal account reported incorrectly	+ 19,195
• Unexplained difference.	+ 39,021
Total understatement of receipts	<u>\$ 125,716</u>

The net understatement of disbursements resulted from the following:

• In-kind contributions not reported	+ \$ 750
• Unreported operating expenditures	+ 43,997
• Net mathematical error overstating expenditures	- 1,000
• Voided expenditure reported in error	- 850
• Unexplained difference.	- <u>2,273</u>

Total net understatement of disbursements \$ 40,624

As a result of the misstatements detailed above, the ending cash on hand at December 31, 2002 was understated by \$27,020.

At the exit conference, the Audit staff explained the misstatements and provided ARMPAC's representative with schedules detailing these discrepancies. The representative stated that she would review the spreadsheets provided and amend reports accordingly.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that ARMPAC amend its reports to correct the misstatements noted above; and, in addition, its most recent report should be amended to show the adjusted cash-on hand balance with an explanation that it resulted from audit adjustments from a prior period. In response to the interim audit report, ARMPAC filed amended disclosure reports that materially corrected the misstatements noted above.

Finding 2. Reporting of Debts and Obligations

Summary

ARMPAC failed to report debts owed to 25 vendors in the amount of \$322,306. The Audit staff recommended that ARMPAC amend its disclosure reports to include these debts. In response to the interim audit report, ARMPAC filed amended reports that materially disclosed the debts noted above.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 2 U.S.C §434(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

B. Separate Schedules. A political committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

C. Itemizing Debts and Obligations

- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it on the next regularly scheduled report.

- A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

Facts and Analysis

Disclosure reports filed during the audit period did not disclose any debts owed by ARMPAC. The Audit staff reviewed disbursements and identified debts owed to 25 vendors, totaling \$322,306, which should have been disclosed on Schedules D (Debts and Obligations excluding Loans). The majority of the debts were outstanding over several reporting periods but not reported. In order to derive the total debts not reported, each outstanding debt was counted only once, even if it was outstanding for several periods.

ARMPAC's representative was informed of this matter at the exit conference and provided a schedule detailing the debts requiring disclosure. She indicated that the amended Schedules D would be filed.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that ARMPAC amend its reports to disclose the debts and obligations addressed above on Schedules D as required. In response to the interim audit report, ARMPAC filed amended reports which included Schedules D that materially disclosed these debts.

Finding 3. Non-federal Funding of Federal Activity

Summary

A review of expenditures made from federal and non-federal accounts indicated that the non-federal account potentially paid more than its share of allocable expenses by \$211,281. Contributing significantly to this result was the allocation ratio for administrative expenses used by ARMPAC. ARMPAC allocated 50% of its administrative expenses to the non-federal account, instead of 7%. In addition, ARMPAC made disbursements that appear to be allocable between the federal and non-federal accounts from its non-federal account rather than from its federal account. The Audit staff recommended that ARMPAC either demonstrate there had been no over funding by the non-federal account or reimburse the non-federal account \$211,281 and correct its disclosure of the expenditures. In response to the interim audit report, ARMPAC provided additional documentation that reduced the liability to the non-federal account to \$203,483 and amended its disclosure reports to reflect these changes.

Legal Standard

A. Accounts for Federal and Non-federal Activity. A committee that finances political activity in connection with both federal and non-federal elections must establish two accounts (federal and non-federal) and allocate shared expenses--those that simultaneously support federal and non-federal election activity—between the two accounts. Alternatively, the committee may conduct both federal and non-federal activity from one bank account, considered a federal account. 11 CFR §102.5(a)(1)(i).

B. Federal vs. Non-federal Account. The federal account may contain only those funds that are permissible under the federal election law; the non-federal account may contain funds that are not permitted under the federal law (but are legal under state law), such as contributions that exceed the limits of the federal law and contributions from prohibited sources, such as corporations and labor organizations. 11 CFR §102.5(a)(1)(i) and (a)(3).

C. Reporting Allocable Expenses. A political committee that allocates federal/non-federal expenses must report each disbursement it makes from its federal account (or separate allocation account) to pay for a shared federal/non-federal expense. Committees report these kinds of disbursements on Schedule H4 (Joint Federal/Non-federal Activity Schedule). 11 CFR §104.10(b)(4)

D. Allocation Required for Generic Voter Drives. Nonconnected committees must allocate all of their costs for generic voter drives. A generic voter drive is an activity that urges the general public:

- To register to vote;
- To vote; or
- To support candidates of a particular party or candidates who are associated with a particular issue, without mentioning a specific candidate. 11 CFR §106.6(b)(2)(iii).

E. Determining the Appropriate Allocation Ratio. Nonconnected committees shall allocate administrative expenses and costs of generic voter drives based on the ratio of federal expenditures to total federal and non-federal expenditures. The federal and non-federal expenditures used in this calculation are limited to expenditures made in direct support of candidates. 11 CFR §106.6(c)(1)

F. Allocation Ratio for Shared Fundraising Expenses. If a committee raises both federal and non-federal funds through the same fundraising program or event, it must allocate the direct cost of the fundraising event based upon the ratio of funds received by the federal account to the total amount raised for the event. 11 CFR §106.5(f)(1).

Facts and Analysis

ARMPAC maintained separate federal and non-federal bank accounts. It paid shared expenses from the federal account and transferred funds from the non-federal account to the federal account to cover the non-federal share of those expenses. ARMPAC paid allocable expenses for administrative and generic get out the vote (GOTV) expenses from the federal account using a ratio of 50% federal and 50% non-federal and disclosed this ratio on its Schedules H1 (Method of Allocation for Shared Federal and Non-federal Administrative Expenses and Generic Voter Drive Costs). The Audit staff reviewed disbursements from both the federal and non-federal accounts and found that the non-federal had potentially over funded its share of allocable expenses by \$211,281. The succeeding paragraphs address the issues noted by the Audit staff.

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A. Incorrect Ratio Used for Administrative and Generic Get-Out-the-Vote (GOTV) Expenses

As noted above, ARMPAC paid allocable expenses for administrative and generic get-out-the-vote expenses from the federal account using a ratio of 50% federal and 50% non-federal. The Audit staff reviewed direct candidate support by ARMPAC in order to determine the correct allocation ratio for such expenses. ARMPAC contributed a total of \$1,120,600 directly to candidates; \$1,046,000 to federal candidates and \$74,600 to non-federal candidates. Based on this information, the Audit staff calculated the allocation ratio to be 93% federal ($\$1,046,000/\$1,120,600$) and 7% non-federal ($\$74,600/\$1,120,600$). ARMPAC calculated that the non-federal share of administrative and GOTV expenses was \$141,225; the Audit staff's calculation is \$19,769 at 7%. Therefore, the non-federal overpaid its portion of such allocable expenses by \$121,456 ($\$141,225 - \$19,769$).

B. Incorrect Ratio Used for Fundraising Event Expenses

ARMPAC paid allocable expenses for eight fundraising events from the federal account using estimated ratios of federal and non-federal receipts for each event and disclosed these ratio on Schedule H2 (Allocation Ratios). The following schedule shows the ratio reported by ARMPAC and the ratio calculated by the Audit staff based on available records:

Fundraising Event Ratios		
Event Name and Date	Reported Ratio % Federal/Non-federal	Audit Ratio % Federal/Non-federal
Four Streams 2001 (7/23/01)	20/80	17/83
Puerto Rico 2001 (9/10/01)	15/85	8/92
Hackberry 2001 (10/24/01)	50/50	40/60
Orlando 2001 (11/2/01)	15/85	12/88
Puerto Rico 2002 (2/25/02)	15/85	10/90
California 2002 (3/26/02)	20/80	47/53
Four Streams 2002 (4/19/02)	15/85	28/72
New York 2002 (6/1/02)	40/60	18/82

On Schedule H4, ARMPAC reported \$126,511 as the non-federal share of expenses relative to the eight fundraising events. The Audit staff applied its ratios to these fundraising expenses and determined the non-federal portion to be \$117,097. Thus, the non-federal had overpaid its share by \$9,414.

C. Federal Share of Allocable Expense Made from the Non-federal Account

The Audit staff's review of non-federal disbursements identified 112 payments totaling \$418,352 to consulting/fundraising vendors for fundraising expenses. ARMPAC provided contracts and affidavits that describe services provided by these vendors as non-federal fundraising activity, developing strategies and objectives for the organization; implementing direct mail and telemarketing efforts; and providing guidance with respect to the committee's role in non-federal races and state party activity. Therefore, ARMPAC contends that these vendor payments were solely non-federal expenses.

Documentation provided to date does not show a separate non-federal fundraising activity. On the contrary, the fundraising ratios developed above resulted from documentation provided by ARMPAC which indicates the events were shared fundraising efforts for both the federal and non-federal accounts. Further, the Audit staff notes that some payments were made to these vendors by ARMPAC and disclosed on Schedules H4 (Joint Federal/Non-federal Activity Schedule) as shared expenses. As such, the Audit staff considers these payments to be for shared activity.

In the absence of documentation allowing the Audit staff to associate these expenses with specific fundraising events, a simple average, federal fundraising ratio was calculated based on the fundraising event ratios described above in Finding 3.B. – Incorrect Ratio used for Fundraising Event Expenses. This ratio has been applied to determine the federal portion of the expense paid from the non-federal account to be \$94,129, or 22.5% of \$418,352.

In addition, ARMPAC reported a \$15,710 fundraising expense for a 2001 Puerto Rico event which was paid directly from the non-federal account. The Audit staff's calculated fundraising ratio for this event was 8% as described above in Finding 3.B. – Incorrect Ratio used for Fundraising Event Expenses, therefore the federal portion of this allocable expenditure was calculated to be \$1,257, or 8% of \$15,710.

Therefore, the non-federal had paid the federal's portion of shared expenses, which totaled \$95,386 (\$94,129 + \$1,257).

The Audit staff presented this matter at the exit conference and provided ARMPAC's representative with schedules detailing the expenditures. The representative expressed a willingness to review the spreadsheets provided, file amended reports and understood a payment from the federal account to the non-federal account may be required.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that ARMPAC demonstrate the identified disbursements paid by the non-federal account are not allocable expenses by providing documentation that the fundraising was solely non-federal in nature, the Audit staff's administrative/generic get-out-the-vote and fundraising ratios as calculated above are incorrect, and/or there has been no over funding by the non-federal account. Absent such a demonstration, it was recommended that ARMPAC:

- File a Schedule H1 to correctly disclose the administrative/gotv allocation ratio;
- File a Schedule H2 to correctly disclose the fundraising event allocation ratios;
- File Schedules H4 disclosing the payments from the non-federal account as memo entries that include the total amount paid, the federal share, and the non-federal share;
- Footnote each memo entry on Schedule H4 to say "recognize payments of allocable expenses from the non-federal account"; and
- Use funds from its federal account to reimburse the non-federal account \$211,281 and provide evidence of such reimbursement. If ARMPAC lacked the funds to make the reimbursement, it should have disclosed the amount owed as a debt on Schedule D until such time as funds became available to make the reimbursement.

In response to the interim audit report, ARMPAC submitted documentation and filed amended disclosure reports addressing each of the matters presented above.

With respect to Finding 3.A. above, Incorrect Ratio Used for Administrative and Generic Get-Out-the-Vote (GOTV) Expenses, ARMPAC, as part of its response, submitted an amended Schedule H1 correcting its ratio from the 50% federal/50% non-federal it had utilized to the 93% federal/7% non-federal calculated by the Audit staff. In addition, amended Schedules H4 were submitted correcting the disclosure of shared administrative/GOTV expenditures to reflect the correct ratio and decreasing the non-federal share by \$121,456. The Non-Federal Funding Analysis (the Analysis) on page 12 reflects these corrections.

With respect to Finding 3.B. above, Incorrect Ratio Used for Fundraising Event Expenses, in response to the interim audit report, ARMPAC provided additional documentation detailing the receipts collected relative to each of the fundraising events. The Audit staff reviewed the documentation and revised its fundraising ratios accordingly. Based on the revised ratios, the Audit staff re-calculated the non-federal share of expenses associated with these events and determined it had overpaid by \$8,205 (\$126,511 originally reported - \$118,306 amended reports); down from the \$9,414 calculated in the interim audit report. As part of its response, ARMPAC submitted amended Schedules H2 to disclose the correct fundraising ratio for each event and amended Schedules H4 to correct the disclosure of the shared fundraising expenditures impacted by the revised ratios. The Analysis on page 12 reflects these corrections.

Finally, with respect to Finding 3.C., Federal Share of Allocable Expense Made from the Non-federal Account, based on the revised fundraising event ratios discussed above, the Audit staff calculated a revised, simple average federal fundraising ratio. This ratio has been applied to determine the federal portion of the \$418,352 fundraising expenses paid

from the non-federal account to be \$87,854 (21% of \$418,352). ARMPAC's response did not dispute this matter, and included amended Schedules H4 (memo entries) to disclose these expenditures.

In addition, the federal portion of a \$15,710 fundraising expense for a 2001 Puerto Rico event which was paid directly from the non-federal account was re-calculated using the revised fundraising ratio for this event as detailed above. The federal portion of this allocable expenditure is \$943, or 6% of \$15,710.

The total adjustment for the federal share of allocable expenses made from the non-federal account on the Analysis is \$88,797 (\$87,854 + \$943).

Based on ARMPAC's response, the Audit staff prepared the Analysis that appears below.

Non-federal Funding Analysis		
Description	Finding Index	
Net Transfers made from Non-federal Accounts		\$ 252,761
Less: Non-federal Portion of Allocable Expenditures per amended reports filed by ARMPAC on 06-24-05 in response to the interim audit report.		<u>(138,075)²</u>
Net (Under funding)/Over funding by the Non-federal Account:		\$ 114,686
Adjustment:		
Federal Share of Allocable Expenses made from the Non-federal Account	Finding 3. C.	\$ 88,797
Adjusted Amount of Non-federal OVER Funding of Allocable Expenses		\$ 203,483

The Analysis indicates that the non-federal account has over funded its share of allocable expenses by \$203,483. ARMPAC amended its Schedule D to reflect this as a debt owed to "Americans for a Rep. Majority NonFed Acct."

² This figure is the non-federal portion of allocable expenditures originally reported (\$267,736) adjusted for amended reports which reduced the non-federal portion of administrative and generic get-out-to-vote expenses by \$121,456 and fundraising event expenses by \$8,205.